



House of Representatives

General Assembly

File No. 23

January Session, 2011

Substitute House Bill No. 6267

House of Representatives, March 1, 2011

The Committee on General Law reported through REP. TABORSAK of the 109th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING THE SALE OF WINE WITH GIFT BASKETS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2011*) (a) A gift basket retailer
2 permit shall allow the retail sale of wine included in a gift basket sold
3 at retail by the permit holder. Such wine shall not be consumed on the
4 premises. Such permit holder shall be located in this state and such
5 wine shall only be purchased by such permit holder from the holder of
6 a package store permit issued pursuant to section 30-20 of the general
7 statutes.

8 (b) The holder of a gift basket retailer permit may sell gift baskets
9 which may include (1) wine, (2) food items, (3) nonalcoholic beverages,
10 (4) concentrates used in the preparation of mixed alcoholic beverages,
11 (5) wine-making kits and products related to wine-making kits, (6) ice
12 in any form, (7) articles of clothing imprinted with advertising related
13 to the alcoholic liquor industry, or (8) flowers, plants and garden-
14 related items. The sale of such gift baskets shall only take place during
15 the times permitted for the sale of alcoholic liquor in places operating

16 under package store permits pursuant to section 30-91 of the general
17 statutes.

18 (c) The annual fee for a gift basket retailer permit shall be two
19 hundred dollars plus the sum required by section 30-66 of the general
20 statutes.

21 Sec. 2. (NEW) (*Effective October 1, 2011*) (a) A gift basket retailer
22 permit issued in accordance with section 1 of this act shall allow the
23 sale and delivery or shipment of wine directly to a consumer in this
24 state, subject to the provisions of section 1 of this act and of this
25 section, or to a consumer outside of this state, subject to all applicable
26 laws of the jurisdiction in which such consumer outside of this state is
27 located. Such permittee, when selling and shipping wine directly to a
28 consumer in this state, shall: (1) Ensure that the shipping labels on all
29 containers of wine shipped directly to a consumer in this state
30 conspicuously state the following: "CONTAINS ALCOHOL—
31 SIGNATURE OF A PERSON AGE 21 OR OLDER REQUIRED FOR
32 DELIVERY"; (2) obtain the signature of a person age twenty-one or
33 older at the address prior to delivery, after requiring the signer to
34 demonstrate that he or she is age twenty-one or older by providing a
35 valid motor vehicle operator's license or a valid identity card described
36 in section 1-1h of the general statutes; (3) not ship more than five
37 gallons of wine in any two-month period to any person in this state
38 and not ship any wine until such permittee is registered, with respect
39 to the permittee's sales of wine to consumers in this state, for purposes
40 of the taxes imposed under chapters 219 and 220 of the general
41 statutes, with the Department of Revenue Services; (4) pay, to the
42 Department of Revenue Services, all sales taxes and alcoholic beverage
43 taxes due under chapters 219 and 220 of the general statutes on sales of
44 wine to consumers in this state, and file, with said department, all sales
45 tax returns and alcoholic beverage tax returns relating to such sales,
46 with the amount of such taxes to be calculated as if each sale were
47 made in this state at the location where delivery is made; (5) report to
48 the Department of Consumer Protection a separate and complete
49 record of all sales and shipments to consumers in the state, on a ledger

50 sheet or similar form which readily presents a chronological account of
 51 such permittee's dealings with each such consumer; (6) permit the
 52 Department of Consumer Protection and Department of Revenue
 53 Services, separately or jointly, to perform an audit of the permittee's
 54 records upon request; (7) not ship to any address in the state where the
 55 sale of alcoholic liquor is prohibited by local option pursuant to section
 56 30-9 of the general statutes; (8) hold an in-state transporter's permit
 57 pursuant to section 30-19f of the general statutes or make any such
 58 shipment through the use of a person who holds such an in-state
 59 transporter's permit; and (9) execute a written consent to the
 60 jurisdiction of this state, its agencies and instrumentalities and the
 61 courts of this state concerning the enforcement of this section and any
 62 related laws, rules or regulations, including, but not limited to, tax
 63 laws, rules or regulations.

64 (b) The Department of Consumer Protection, in consultation with
 65 the Department of Revenue Services, may adopt regulations, in
 66 accordance with the provisions of chapter 54 of the general statutes, to
 67 assure compliance with the provisions of subsection (a) of this section.

68 (c) A holder of a gift basket retailer permit, when advertising or
 69 offering wine for direct shipment to a consumer in this or another state
 70 via the Internet or any other on-line computer network, shall clearly
 71 and conspicuously state such liquor permit number in its advertising.

72 (d) For purposes of chapter 219 of the general statutes, the holder of
 73 a gift basket retailer permit, when shipping wine directly to a
 74 consumer in this state, shall be deemed to be a retailer engaged in
 75 business in this state, as defined in chapter 219 of the general statutes,
 76 and shall be required to be issued a seller's permit pursuant to chapter
 77 219 of the general statutes.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2011	New section
Sec. 2	October 1, 2011	New section

GL *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 12 \$	FY 13 \$
Consumer Protection, Dept.	GF - Cost	less than 200,000	less than 200,000
Consumer Protection, Dept.	GF - Revenue Gain	less than 200,000	less than 200,000
Department of Revenue Services	GF - Revenue Gain	See Below	See Below

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill results in a cost of less than \$200,000 in FY 12 and FY 13 to the Department of Consumer Protection (DCP) and an associated revenue gain by creating a new gift basket retailer permit which allows the retail sale and shipment of wine gift baskets. The cost would be due to the necessary permitting process, investigations, remonstrances and enforcement required of any liquor retail permit. The DCP currently expends approximately \$2.5 million per year (including fringe benefits) in these aforementioned areas for approximately 7,000 existing licenses. This amounts to \$363 per permit. The bill provides for a \$200 permit fee and allows the DCP to charge for administrative costs.

Additionally this bill would result in a revenue gain from the sales and use tax associated with the sale of wine in gift baskets. The revenue gain would depend on the number of gift basket retailers and the volume of sales generated by the product line. Each additional bottle sold as part of a gift basket would generate an estimated \$2.10 in sales tax revenue. The number of additional bottles to be sold under the bill is unknown.

For illustrative purposes, every 100 businesses which obtain a permit and gain a profit of \$200 from the sale of wine gift baskets to pay for the cost of the permit, a revenue gain of \$1,200 would result.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sHB 6267*****AN ACT CONCERNING THE SALE OF WINE WITH GIFT BASKETS.*****SUMMARY:**

This bill establishes a gift basket retailer permit, which allows the retail sale and shipment of wine in gift baskets to both in-state and out-of-state consumers. The annual permit fee is \$200 plus administrative costs.

The bill sets out procedures for in-state delivery. It allows the Department of Consumer Protection (DCP), in consultation with the Department of Revenue Services (DRS), to adopt regulations to assure compliance with the bill.

The bill requires the permittee to clearly put his or her liquor permit number on all online advertising to ship wine. For tax purposes, the permittee is deemed a retailer engaged in business when shipping wine directly to an in-state consumer. As such, he or she is required to have a seller's permit.

EFFECTIVE DATE: October 1, 2011

GIFT BASKET RETAILER PERMIT

The gift basket retailer permit allows a retail bottle of wine to be included in a gift basket. The permittee must be located in-state and the wine (1) cannot be consumed on the premises, (2) must be purchased from a package store, and (3) can only be sold during the same hours a package store is allowed to sell alcohol.

The permittee may sell gift baskets that include (1) wine; (2) food items; (3) nonalcoholic beverages; (4) concentrates used to make mixed alcoholic beverages; (5) wine-making kits and related products; (6) ice;

- (7) clothing with advertising related to the alcoholic liquor industry; or
- (8) flowers, plants, and garden-related items.

DIRECT SHIPMENT

A gift basket retailer permit allows the sale and delivery or shipment of wine directly to a consumer. If a consumer is out-of-state, the permittee will be subject to all applicable laws of that state. If the consumer is in this state, the permittee must:

1. ensure the shipping labels on wine containers conspicuously state: "CONTAINS ALCOHOL—SIGNATURE OF A PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY";
2. get someone who is at least age 21, as shown on a driver's license or identity card, to sign for the delivery;
3. register with DRS for tax purposes and not ship more than five gallons of wine in any two-month period;
4. pay all sales and alcoholic beverage taxes due on the sales to DRS and file related tax returns;
5. report to DCP a separate and complete record of all sales and shipments to consumers in the state on a ledger or similar document;
6. permit DCP and DRS, separately or jointly, to audit his or her records upon request;
7. not ship to any address in the state where the sale of alcoholic liquor is prohibited by local option;
8. hold an in-state transporter's permit or make shipments through someone who does; and
9. execute a written consent to follow the laws of the state.

COMMITTEE ACTION

General Law Committee

Joint Favorable Substitute

Yea 15 Nay 1 (02/15/2011)